

REMARKS

This application contains claims 1-131, the status of which is as follows:

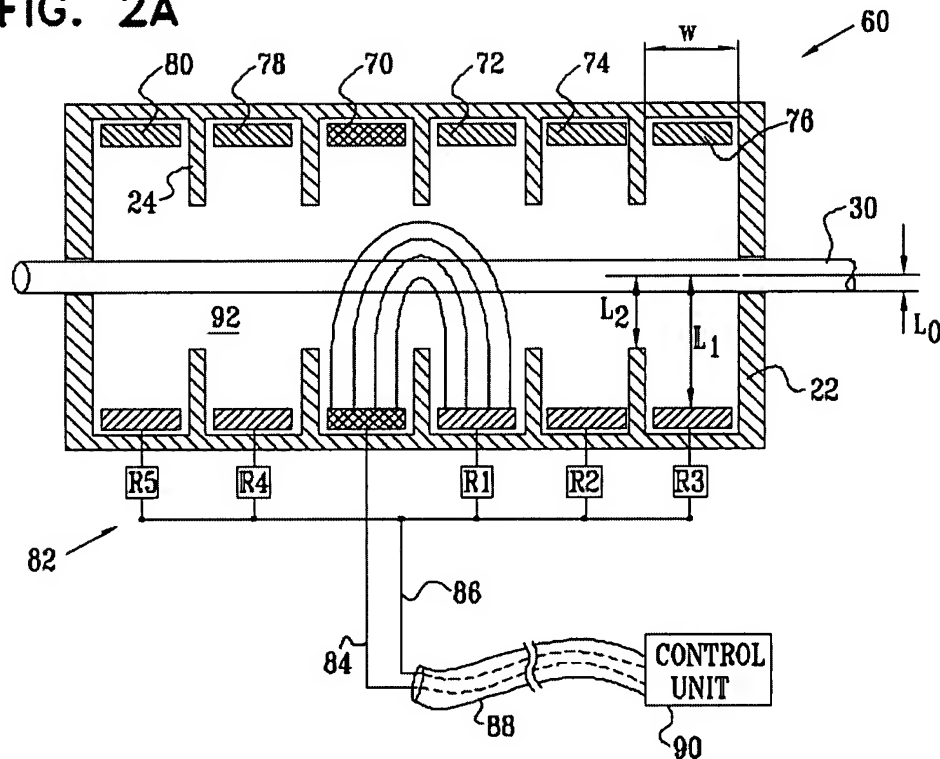
- (a) Claims 91-92, 94-96, 98-105, and 107-114 are as originally filed.
- (b) Claims 90, 93, 97, and 106 have been currently amended.
- (c) Claims 99 and 108 were previously amended to remove multiple dependencies.
- (d) Claims 1-89 were previously canceled by preliminary amendment.
- (e) Claims 115-131 were previously withdrawn in response to a restriction requirement.

No new matter has been added. Reconsideration is respectfully requested.

***Claim rejections under 35 U.S.C. 102***

Claims 90-95 and 97-114 were rejected under 35 U.S.C. 102(b) as anticipated by US Patent 5,634,462 to Tyler et al., and under 35 U.S.C. 102(e) as anticipated by US Patent 6,600,956 to Maschino et al. The Applicant respectfully traverses the rejections of dependent claims 94, 97, and 106. Independent claim 90 has been amended to include all of the features of dependent claim 94 and intervening claim 93. Claim 97 has been recast in independent form including all of the features of independent claim 90 as originally filed. Claim 106 has been recast in independent form including all of the features of independent claim 90 as originally filed and intervening claim 105. Claim 93 has been amended to depend from claim 106.

Claim 94 recites that an insulating element disposed between two electrodes of the cuff comprises a flexible resilient material having a different hardness from that of a flexible resilient material of the cuff. Such insulating elements are described and shown in numerous embodiments of the present application. For example, insulating elements 24 are described with reference to Fig. 2A (reproduced below) as follows: "Insulating elements 24, which are typically either part of the body of the housing or affixed thereto, are preferably placed so as to separate the electrodes, and to guide current from one of the electrodes towards the nerve prior to being taken up by another one of the electrodes" (p. 31, lines 24-28).

**FIG. 2A**

The Examiner argued that claim 94 is anticipated by column 3, line 65 – column 4, line 3, column 6, lines 10-20 and 44-51, and column 8, lines 1-5 of Tyler, and by Maschino in general. The Applicant respectfully submits that none of these passages from Tyler teaches or suggests the features of claim 94 (which, as mentioned above, have been incorporated into independent claim 90).

In particular, column 3, line 65 – column 4, line 3 of Tyler reads:

Control over the spring constant or throttling force exerted by the cuff corrugations on the target tissue is accomplished through a selection of a specific non-conductive material type and by controlling the thickness comprising the cylindrical body itself and the thickness, size and dimensions of the plurality of corrugations forming the cylindrical body.

This passage does not describe the hardness of an insulating element between two electrodes.

Column 6, lines 10-20 of Tyler reads:

With continued reference to FIGS. 1-3 but with particular attention to FIG. 1, the sheet A is preferably formed of a single layer of flexible rubberized biocompatible material. However, it may also be formed by laminating two or more materials for added strength or to realize other characteristics in the final cuff device. The sheet may include a first and oppositely disposed second generally planar surface biased in the manner set forth in our earlier patent referenced above, to cause the sheet to curl into a closed cylinder. In the preferred embodiment, however, the sheet A is a generally planar rectangle which extends from a first end 12 to an oppositely disposed second end 14 and from a first or arresting edge 16 to an oppositely disposed second or escape edge 18.

This passage also does not describe the hardness of an insulating element between two electrodes.

Column 6, lines 44-51 of Tyler reads:

As illustrated in the Figures, each of the alternate furrows and ridges have a plurality of conductive segments B received thereon. Each of the conductive segments B are preferably molded within the sheet A during the initial phase of manufacture. Later, after molding and curing where necessary, portions of the sheet immediately adjacent the conductive segments B are trimmed away exposing the conductive segments B individually.

Likewise, this passage does not describe the hardness of an insulating element between two electrodes.

And last, column 8, lines 1-5 of Tyler reads:

Although the preferred arrowhead connector 70 is illustrated as being formed of the same material as the sheet A, it is possible to bond connectors of other materials to opposite ends of the sheet. As an example, the arrowhead connector may be made of biocompatible plastic glued or attached to the first end 12.

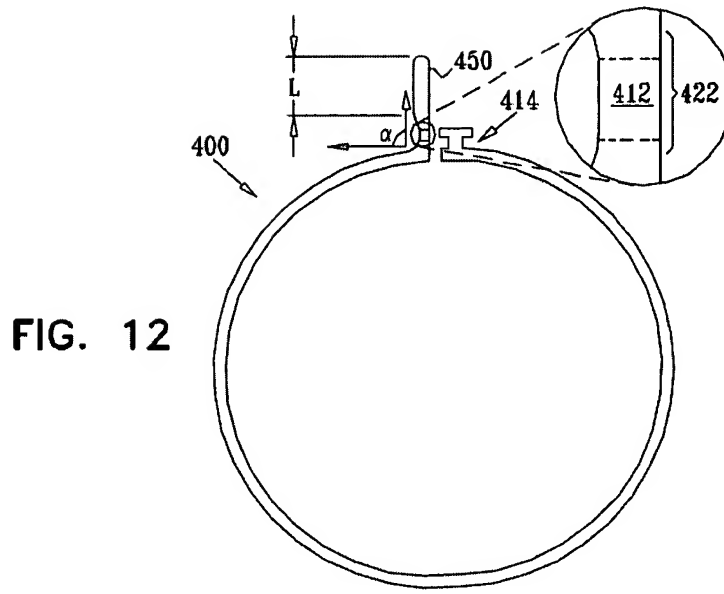
This passage describes the material of arrowhead connector 70 of Figs. 7A-C of Tyler. Such a connector is unrelated to the insulating element between two electrodes recited in claim 94, and serves an entirely different purpose.

The Examiner did not cite any passages from Maschino in support of the rejection of claim 94. The Applicant respectfully submits that Maschino neither teaches nor suggests the features of claim 94.

The Applicant thus submits that claim 90 is patentable over Tyler and Maschino.

Claim 97 recites that "the cuff comprises a first flexible resilient material in a vicinity of the hole, and a second flexible resilient material, the first material having a hardness different from a hardness of the second material." The Examiner cited the same passages from Tyler mentioned above against this claim, and made the same general, non-specific reference to Maschino. The Applicant respectfully submits that neither the passages from Tyler, nor Maschino in general, describe nor suggest the features of this claim. In particular, column 8, lines 1-5 of Tyler describe a connector comprising a different material from the body of the cuff. In contrast, claim 97 recites a vicinity of the hole comprising a different material. The Applicant thus submits that claim 97 is patentable over Tyler and Maschino.

Claim 106 recites that "when no external force is applied to the cuff, the flap forms an angle of between about 90 and about 180 degrees with a surface of the cuff in the vicinity of the first edge." An embodiment of this claim is described in the specification with reference to Fig. 12 (reproduced below): "Cuff 400 comprises a flap 422 set at an angle  $\alpha$  to the surface of the cuff. The angle  $\alpha$  is typically between 90 and 180 degrees, such as 90 degrees" (col. 43, lines 23-25).



The Examiner did not cite any particular passages in either Tyler or Maschino against claim 106. The Applicant respectfully submits that neither Tyler nor Maschino describes nor suggests the features of claim 106, and that claim 106 is thus allowable.

The remaining non-withdrawn claims in the application depend from one of claims 94, 97, or 106, and thus are also in a condition for allowance, being of narrower scope than the respective allowable independent claims from which they depend.

***Claim rejections under 35 U.S.C. 102/103***

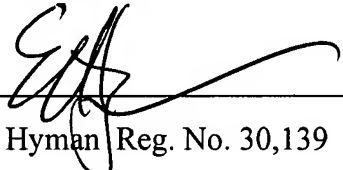
Claim 96 was rejected under 35 U.S.C. 102(b) as anticipated by, or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tyler. Claim 96 was also rejected under 35 U.S.C. 102(e) as anticipated by, or, in the alternative, under 35 U.S.C. 103(a) as obvious over Maschino. As mentioned above, the Applicant respectfully submits that claim 96 is allowable, because it is of narrower scope than allowable claim 90 from which it depends.

The Applicant believes the amendments and remarks presented hereinabove to be fully responsive to all of the grounds of rejection raised by the Examiner. In view of these amendments and remarks, the Applicant respectfully submits that all of the claims in the present application are now in order for allowance. Notice to this effect is respectfully requested.

Respectfully submitted,

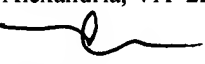
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date: 8/20, 2007

By: 

Eric S. Hyman Reg. No. 30,139

**CERTIFICATE OF MAILING**

<p>12400 Wilshire Boulevard Seventh Floor Los Angeles, California 90025 (310) 207-3800</p>	<p>I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on <u>8/20/07</u>.</p> <p><u></u> <u>8/20/07</u> Vi Hoang Date</p>
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